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6 Attorneys for Plaintiffs
7 ATR-KIM ENG FINANCIAL CORPORATION
and ATR-KIM ENG CAPITAL PARTNERS,
8 INC.

RECEIVED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
FEB 10 2007
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

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13 HOWARD RICE
NEMEROVSKI CANADY
FALK & RABKIN
14 Professional Corporation
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16 ATR-KIM ENG FINANCIAL
CORPORATION and ATR-KIM ENG
CAPITAL PARTNERS, INC.,

Plaintiffs,

17 v.
18 HUGO BONILLA and MONICA
ARANETA,

19 Defendants.

20 Case No.
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20 NOTICE OF REMOVAL PURSUANT
TO 28 U.S.C. §1452

[Originally filed in San Mateo County
Superior Court as action no. CIV 460691
on February 2, 2007]

[NO HEARING REQUESTED]

[JURY TRIAL DEMANDED]

1 **PLEASE TAKE NOTICE** that Plaintiffs ATR-Kim Eng Financial Corporation and
2 ATR-Kim Eng Capital Partners, Inc. (collectively "Plaintiffs"), hereby remove the above-
3 entitled action from the Superior Court of the State of California, County of San Mateo, to the
4 United States District Court for the Northern District of California, San Francisco Division,
5 pursuant to 28 U.S.C. section 1452(a) and Federal Rule of Bankruptcy Procedure ("FRBP")
6 9027. In support of removal, Plaintiffs allege as follows:

7 1. On February 2, 2007, Plaintiffs filed an action entitled *ATR-Kim Financial*
8 *Corporation and ATR-Kim Eng Capital Partners, Inc. v. Hugo Bonilla, Monica Araneta,*
9 *Dora M. Aberouette, Michelle Bonilla and Does 1-50* in the Superior Court for the State of
10 California, County of San Mateo, designated as Case No. CIV 460691 (the "Action").
11 Defendants currently named in the Action—Hugo Bonilla and Monica Araneta (collectively,
12 "Defendants")—have been duly served with the Summons and First Amended Complaint in
13 the Action. Copies of the pleadings and process filed in the Action are attached hereto as
14 follows:

15 Exhibit 1: Complaint to Set Aside Fraudulent Transfer, Annul Obligation and for
16 Damages;

17 Exhibit 2: Civil Case Cover Sheet;

18 Exhibit 3: 30 Day Summons, Issued and Filed;

19 Exhibit 4: Affidavit of Personal Delivery by M. Javillonar;

20 Exhibit 5: Notice of Pendency of Real Property Claim (Lis Pendens), filed February 6,
21 2007;

22 Exhibit 6: Notice of Pendency of Real Property Claim (Lis Pendens), filed February 9,
23 2007;

24 Exhibit 7: First Amended Complaint to Set Aside Fraudulent Transfers, Annul
25 Obligations and for Damages;

26 Exhibit 8: 30 Day Summons, Issued and Filed;

27 Exhibit 9: Notice of Pendency of Real Property Claim (Lis Pendens), filed February 20,
28 2007;

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1452

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1 Exhibit 10: Notice of Pendency of Real Property Claim (Lis Pendens), filed February
2 21, 2007;

3 Exhibit 11: Proof of Service (Personal) of First Amended Complaint and Summons
4 Served on Albert K. Martin;

5 Exhibit 12: Proof of Service (Personal) of First Amended Complaint and Summons
6 Served on Dora M. Aberouette;

7 Exhibit 13: Proof of Service by Mail of First Amended Complaint and Summons
8 Served on Monica Araneta;

9 Exhibit 14: Proof of Service (Personal) of First Amended Complaint and Summons
10 Served on Michelle Bonilla;

11 Exhibit 15: Monica Araneta's General Denial to Unverified First Amended Complaint

12 Exhibit 16: Notice of Automatic Stay Under Bankruptcy Code;

13 Exhibit 17: Request for Dismissal of First Amended Complaint of ATR-Kim Eng
14 Financial as to Defendants Dora M. Aberouette and Michelle Bonilla; and

15 Exhibit 18: Notice of Entry of Dismissal as to Defendants Dora M. Aberouette and
16 Michelle Bonilla and Proof of Service.

17 The Action remains pending in the San Mateo County Superior Court as of the date of this
18 Notice.

19 2. On March 16, 2007, Defendant Hugo Bonilla ("Bonilla") commenced a Chapter 7
20 bankruptcy case by filing a voluntary petition ("Voluntary Petition") in the United States
21 Bankruptcy Court for the Northern District of California, San Francisco Division, designated
22 as Case No. 07-30309 (the "Bankruptcy Case"). A copy of Bonilla's Voluntary Petition is
23 attached hereto as Exhibit 19. The filing of the Bankruptcy Case automatically stayed the
24 Action pursuant to 11 U.S.C. section 362(a).

25 3. This Notice is filed within the time allowed for the removal of civil actions pursuant
26 to FRBP 9027(a)(2)(B). On November 15, 2007, this Court in the Bankruptcy Case issued an
27 Order Approving Stipulation For Relief From Stay To Allow Removal Of State Court Action,
28 a copy of which is attached hereto as Exhibit 20. The Order states, "the automatic stay of
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1 Section 362(a) of the United States Bankruptcy Code is hereby modified to permit ATR to
2 remove to this Court the California state court action styled *ATR-Kim Financial Corporation*
3 and *ATR-Kim Eng Capital Partners, Inc. v. Hugo Bonilla, Monica Araneta, Dora M.*
4 *Aberouette, Michelle Bonilla and Does 1-50*, San Mateo County Superior Court No. CIV
5 460691." See Ex. 20 at 1:26-2:2. Accordingly, the deadline for filing this Notice is Monday,
6 December 17, 2007, which is the first day not falling on a holiday or weekend that is "30 days
7 after entry of an order terminating a stay, if the claim or cause of action in a civil action has
8 been stayed under § 362 of the Code." FRBP 9027(a)(2)(B).

9 4. The United States District Court for the Northern District of California (and the
10 Bankruptcy Court which is a unit of the District Court) have original jurisdiction over this
11 Action pursuant to 28 U.S.C. section 1334(b) in that the Action is a proceeding "related to" a
12 case under the Bankruptcy Code (the Bankruptcy Case), which is currently pending in the
13 Northern District of California Bankruptcy Court, San Francisco Division. The Action seeks
14 to set aside as a fraudulent transfer certain real property transferred by Defendant Bonilla to
15 Defendant Monica Araneta.

16 5. The Action is "related" to the Bankruptcy Case within the meaning of 28 U.S.C.
17 section 1334(b) because the outcome of the Action "could conceivably have an effect" on the
18 estate being administered in the Bankruptcy Case and "impacts upon the handling and
19 administration of the bankrupt estate." *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988)
20 (quoting and adopting test of "related to" jurisdiction under 28 U.S.C. section 1334(b) set
21 forth in the seminal case of *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3rd Cir. 1984)). The
22 relief sought in the Action would result in the subject real property being included in the
23 estate in the Bankruptcy Case.

24 6. The Action is removable to this Court pursuant to 28 U.S.C. section 1452(a) in that
25 the Action is a civil action (other than a proceeding before the United States Tax Court or a
26 civil action by a governmental unit to enforce such governmental unit's police or regulatory
27 power) which is pending in a court that is located in the District of this Court, and this Court
28 has original jurisdiction pursuant to 11 U.S.C. section 1334(b).

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1452

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7. The Action is a “core proceeding” within the meaning of 28 U.S.C. section 157(b), as it is a “proceeding to determine, avoid, or recover fraudulent conveyances.” 28 U.S.C. §157(b)(2)(H).

8. Plaintiffs certify that a copy of this Notice will be promptly filed with the Clerk of the San Mateo County Superior Court and served on all parties to the Action.

DATED: December 10, 2007

HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
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By William J. Lafferty
WILLIAM J. LAFFERTY

Atorneys for Plaintiffs ATR-KIM ENG
FINANCIAL CORP. and ATR-KIM ENG
CAPITAL PARTNERS, INC.

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